

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ONEWEST BANK, N.A.,

Plaintiff,

v.

SONIA ORELLANA and NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD,

Defendants.

MEMORANDUM & ORDER
15-CV-3267 (MKB) (RML)

MARGO K. BRODIE, United States District Judge:

Plaintiff OneWest Bank, N.A. commenced the above-captioned mortgage foreclosure action on June 4, 2015, against Defendants Sonia Orellana, owner of real property located at 147-17 Beech Avenue, Flushing, New York 11355 (the “Property”) and the New York City Environmental Control Board (“ECB”), holder of an allegedly subordinate lien that encumbers the Property. (Compl. ¶¶ 1–4, Docket Entry No. 1.) Although properly served with the summons and Complaint, (Docket Entry No. 7), ECB failed to appear in this action. On July 16, 2015, Plaintiff sought a notice of default against ECB. (Req. for Certificate of Default, Docket Entry No. 10), which was granted by the Clerk of Court on August 24, 2015, (Aug. 24, 2015 Entry of Default, Docket Entry No. 18).

On September 30, 2015, Plaintiff moved for a default judgment against ECB. (Def. Mot. for Default J., Docket Entry No. 22.) The Court referred the motion to Magistrate Judge Robert M. Levy for a report and recommendation on October 2, 2015. (Oct. 2, 2015 Order.) By Report and Recommendation dated November 3, 2015 (“R&R”), Judge Levy recommended that the Court grant Plaintiff’s motion for default judgment against ECB and terminate ECB’s interest in

the Property. (R&R 2, Docket Entry No. 26.) No party has objected to the R&R, and the time for doing so has passed.

A district court reviewing a magistrate judge's recommended ruling "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "Failure to object to a magistrate judge's report and recommendation within the prescribed time limit 'may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.'" *Sepe v. N.Y. State Ins. Fund*, 466 F. App'x 49, 50 (2d Cir. 2012) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)); *see also Almonte v. Suffolk Cty.*, 531 F. App'x 107, 109 (2d Cir. 2013) ("As a rule, a party's failure to object to any purported error or omission in a magistrate judge's report waives further judicial review of the point." (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) ("[A] party waives appellate review of a decision in a magistrate judge's report and recommendation if the party fails to file timely objections designating the particular issue.").

The Court has reviewed the unopposed R&R, and, finding no clear error, the Court adopts Judge Levy's R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1). Plaintiff's motion for a default judgment against Defendant ECB is granted. The Clerk of the Court is directed to enter default judgment against ECB and terminate its interest in the Property.

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge

Dated: November 19, 2015
Brooklyn, New York